IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETN NO.50 OF 2005

IN

SUIT NO. 3290 OF 1992

M/s.Kantilal & Co. & Ors. ... Petitioners

...(Orig.Defendants)

Vs.

M/s. Chhaganlal Khimji & Co. ... Respondents

...(Orig.Plaintiffs.)

Vs.

Mr. Pradyuman H. Trivedi & Ors. .. Respondents

...(Contemnors)

Mr. E.P.Bharucha alongwith I.N. Kayser, K.S. Pachoo & A.I. Kayser for the Petitioners.

Mr. Virag Tulzapurkar alongith Parimal Shroff, S. Joshi & Radhika Pinzare for Rspondent No. 1 and 8 to 10

Mr. Sandeep Parikh alongwith Prashant Beri i/b. Beri & Co. for Respondent NO. 3 and 5 to 7.

Coram : S.K.Shah, J.

Date : July 8, 2005.

P.C. :-

1. Heard.

2. It is alleged by the Petitioners that the Respondents have committed the contempt of the Order,

dated 16th December, 2003, passed in the aforesaid Suit. The effective Order runs asunder :-

> "However, the discharge of the Receiver cannot be without conditions and the Plaintiffs will have to be put to terms. Accordingly, the Court Receiver shall stand discharged in terms of prayer clause (a) of the Chamber Summons. However, this will be subject to a further order that the Plaintiffs shall not during the pendency of the suit create any third party rights or in any manner transfer, alienate or part with the possession of the suit property or the business therein."

3. It is common ground that the Suit property is the land, building and machinery of the Company. What is alleged is that the Respondents have entered into two Memorandum of Understanding, which are produced at Exhibit "B" and "E", to the Petition. By these two memorandum of understanding, the Respondents have attempted to sell the shares of the Company, held by different persons. It is alleged that the sale of the shares was in violation of the aforesaid Order.

4. It is common ground that the shares were not the property of the Company, they were held by different persons. It is, therefore, obvious the said shares which were belonging to different persons, may be the Directors of the Company, is not the property of the Company involved in this Suit. The property involved in the Suit was only the

land, building and machinery belonging to the Company and nothing more. Under the circumstances the memorandum of understanding for sale of the shares will not be said to be in violation of the Order in the aforesaid Suit.

5. The learned Counsel for the Petitioner, however, submits that it would be open for the Court to lift the corporate veil and the Court will look into the nature of the transaction. However, that aspect cannot be gone into while dealing the contempt petition, where the Court is vested with limited jurisdiction to see whether Order of the Court is violated or not. As the property involved in the Suit, where the Order has been passed, admittedly is only the land, building and machinery of the Company. Under the circumstances, I do not find any merit in the contempt petition. The petition accordingly stands dismissed.

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[S.K.Shah , J.]